

Information or data that is downloaded electronically, such as downloaded books, musical recordings, newspapers or magazines, does not constitute the transfer of tangible personal property. These types of transactions represent the transfer of intangibles and are thus not subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.2105. (This is a GIL.)

August 14, 2001

Dear Xxxxx:

This letter is in response to your letter dated July 16, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

It is requested that we be furnished written confirmation as to the correct application of sales and/or use tax on digitally downloaded media, such as music, movies, and/or digital photographs. Upon purchase, digital media would be electronically downloaded to the customer's individual Personal Computer via the Internet, with no tangible product changing hands at the time of the download or in the future. Once the digital download is completed, the customer has the option of installing the downloaded information on their hard drive, or copying the downloaded information to portable physical media such as digital CD's, digital tapes, digital video, etc.

1. Is the purchase of electronically downloaded media such as music, movies, and/or digital photographs subject to sales tax in your state?
2. If taxable, how is the taxability location for state and/or local taxes determined? In some instances, we may have only a billing address and not the address where the digital media item is actually being downloaded or being used.

Your prompt response is appreciated. Thank you for your assistance in this matter.

Information or data that is downloaded electronically, such as downloaded books, musical recordings, newspapers or magazines, does not constitute the transfer of tangible personal property. These types of transactions represent the transfer of intangibles and are thus not subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.2105. However, downloads of canned software, as defined more fully in 86 Ill. Adm. Code 130.1935, are subject to Retailers' Occupation and Use Tax.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.